A Bill to amend the Cochin Tenancy Regulation.

President.—The next business is Mr. Raja's Bill, "A Bill to amend the Cochin Tenancy Regulation."

Mr. Chakko Cheruvattur.—A point of order. I want to know whether a Bill which was once put before the House for giving leave to introduce can be put for introduction at a subsequent meeting of the same session. This Bill was put up for leave to introduce in the last meeting. Now, it is put up for introduction.

President.—If once it is published by the Government, leave to introduce is unnessary.

Mr. Chakko Cheruvattur.—I understand that. But before that, once it was left to the House to give leave to introduce. Can that power be withdrawn afterwards? When once permission to grant leave to introduce was given to the House, can that be appropriated by the Government afterwards?

Mr. K. Achyuta Menon.—That is motion for leave to introduce. This is not that motion.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The leave is not necessary.

President.—Under the rule, when once it is published, no further leave is necessary.

Mr. Chakko Cheruvattur.—When once permission to grant leave to introduce is given, can that be withdrawn?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—There is nothing preventing.

Mr. Chakko Cheruvattur.—I want a ruling from the Chiar.

President.—I am bound to go by the agenda, and I don't think there are any rules preventing me.

Mr. Chakko Cheruvattur.—Standing Order No. 3 (b). "The Secretary shall, at least fourteen clear days before the date fixed for each session, etc." I do not understand the necessity for the Government in bringing a Bill so soon. Other Bills that are put up for leave to introduce last time are put up for leave to introduce this time also. Fourteen clear days before the beginning of each session notice should be given to all the Members. Here notice was given fourteen clear days before the beginning of the session, however, stating that this Bill is coming for leave to introduce in the course of the session.

President.—Before each sitting.

Mr. Chakko Cheruvattur.—It is session. Three days before each meeting another detailed list should be sent. So this is to be sent 14 clear days before with regard to the work of the whole session.

LIBRARY ARCHIVES Kerala Legislative Assembly

President.—Notice was given 14 days before for leave to introduce. I believe it is one of those referred to in the notice given.

Mr. Chakko Cheruvattur.—It is for leave to introduce.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—And then subsequently for introduction. In the agenda it is put for introduction and not for leave to introduce.

Mr. Chakko Cheruvattur.—So that notice has not been given to the Members stating that this Bill is going to be introduced. Only 14 days' notice for leave to introduce has been given to the Members, whereas the other Bills which were notified for leave to introduce are still for leave to introduce. I do not know what necessity there is for the Government.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—There is some point in what he says.

President.—One is a provisional list the other is a final list. Have you got a copy of the notice?

Mr. C. A. Kunjunni Raja.—It is already given. He is not correct. It is for the introduction.

Mr. Chakko Cheruvattur.—In the notice issued to the Members before this session, i. e., in Vrischigam, it was for leave to introduce.

Mr. C. A. Kunjunni Raja.—That is before leave was given.

Mr. T. K. Krishna Menon.—I shall explain. At first, the Member for Landlords asked only for permission to move for leave to introduce his Bill, and it was given, and it was so put in the provisional list, and, I beleive, in the agenda paper as well for Vrischigam. Subsequently, he got permission from the Diwan to publish his Bill in the Gazette, and it was published. So the present provisional list contains notice that his motion is one for introduction. In the agenda paper also it is put like that. I do not think there arises any point of order here.

Mr. Chakko Cheruvattur.—I do not dispute the power of the Government. What I submit is that Standing Order No. 3 states "before each session" and not "before each meeting." All these meetings constitute only one session. The provisional list has to be sent 14 clear days before each session.

Mr. T. K. Krishna Menon.—In that case, so many items that already came up for consideration were not in the provisional list for Vrischigam.

Mr. Chakko Cheruvattur.—That is the point that I raise.

Mr. T. K. Krishna Menon.—You may raise a point of order; only there is no point in it.

LIBRARY ARCHIVES Kerala Legislative Assembly

President.—According to the mode of work that has to be done during the four sittings, notice must be given, and a provisional list should be sent to the Members. That is what he says, I suppose.

Mr. T. K. Krishna Menon.—Yes, Sir, but it is impossible to do so.

Mr. K. Achyuta Menon.—The words "provisional list" show that the final list contains something more.

Mr. Chakko Cheruvattur.—" Session" in the Standing Order means "meeting". I want a ruling from the Chair. If " session " means "meeting ", that is alright.

President.—" Meeting " means a consecutive sitting for four or five days.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—"Session" does not exactly mean " meeting ".

Mr. K. T. Mathew.—Apart from the point raised by the Member for Vadakkancheri, may I ask whether the Secretary has sent a provisional list of business before any session ?

Mr. C. A. Kunjunni Raja.—Yes.

Mr. K. T. Mathew.—I am not speaking on the point raised by the Member for Vadakkancheri. The Secretary sends us a provisional list of business only before each meeting and not before each session.

President.—That is the construction of "session". It is tantamount to meeting.

Mr. K. T. Mathew.—May I know from the Chair that there is no difference in the meaning of the words "session", " meeting " and" sitting ?

President.—That I cannot say.

Mr. K. T. Mathew.—The President said there is no difference between " meeting" and " sitting". If the Deputy President rules that there is no difference between " session " and " meeting", it comes to this, that there is no difference between " session", " meeting and " sitting ".

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—No such point has been raised now.

Mr. K. T. Mathew.—I raise the point. If there is a difference in meaning, we have got the right to demand that a provisional list of business should be sent to us before every session.

President.—So all the past things are irrelevant.

Mr. K. Achyuta Menon.—Supposing we say, according to the Standing Orders, a provisional list should be sent, failure to do so may not make us incompetent to transact business.

Mr. K. T. Mathew.—I have already said I am not speaking on the point raised by the Member for Vadakkancheri. Because

LIBRARY ARCHIVES Kerala Legislative Assembly

it is laid down in the Standing Order that a provisional list of business should be sent to the Members, and we are entitled to get it. We are not given that. Will it be given in future ?

President.—That will be considered.

Mr. K. T. Mathew.—It is in the Standing Orders. The Government have no power to change the Standing Orders without the permission of the Council.

President.—You will find yourselves in difficulties.

Mr. K. T. Mathew.—Will it be given to us in future ?

President.—Nothing can be done here. If you want a provisional list, that is impossible.

Mr. K. T. Mathew.—Will it be given before each session as is laid down in the Standing Orders ?

President.—I shall ask the permanent President about it. Should I promise ? Do you want me to make a promise ?

Mr. K. T. Mathew.—You are the President now. Your ruling will be held to be correct. You have only to instruct the Secretary.

President.—The Standing Order has to be amended.

Mr. K.T. Mathew.—Till an amendment is passed, what now stands must hold good. As it now stands, we are entitled to get notice.

President.—Have you given notice ? That is sufficient, and it entitles you to move for leave or even to move for introduction.

Mr. K. T. Mathew.—I am not concerned with the present Bill at this stage.

President.—The Member has to give a month's notice for all the business that has be transacted during the four meetings in a year. If this has to be done 14 days before the first session begins the work, the Government will have a good deal of work to do.

Mr. K. T. Mathew.—The Government framed the Standing Orders, and they were given to us. The Government should not have passed impossible and impracticable things, and it gives no credit to our Government that it passed such things.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar:—The whole matter will lie over.

President.—Whichever you want I have no objection. I shall bring this to the notice of the Government, and we will try to rectify it.

Mr. K. T. Mathew.—There is no use of bringing it to the notice of the Government. We have nothing to do with the Government at this stage of the business of the House.

President.—What do you want ?

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. K. T. Mathew.—I want to follow the Standing Orders correctly. That is all.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Let all this business lie over till next year.

Mr. C. A. Kunjunni Raja.—Any matter not within the provisional list can be included in the list of business. What is the harm?

President.—With regard to this particular matter, it is in the agenda paper, and notice has been given.

Mr. Chakko Cheruvattur.—I have yet another point. In the agenda paper for the last meeting, the Legislative Council Members' Exemption Bill and the Marumakkathayam Bill came previous to this Tenancy Regulation.

President.—That is for leave to introduce.

Mr. Chakko Cheruvattur.—Bills which are put up for leave to introduce and Bills which are put up for introduction are on the same footing. Only Bills which are at three particular stages are given precedence. Here is the Standing Order. Standing Order 6, clauses (2), (3) and (4).

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The Diwan has already laid down the agenda.

Mr. K. T. Mathew.—Here also the same difficulty. Throughout the Standing Orders there is a confusion between these words, "meetings," "sessions" and "sittings."

Mr. Chakko Cheruvattur.—Bills other than Government Bills shall be arranged in such order, that is to say, in the following order.—(i) Bills which have reached a stage at which the next motion is a motion that the Bill be passed, (ii) Bills for which the next stage is a motion that the Bill be taken into consideration, (iii) Bills for which the next stage is the presentation of the report of the Select Committee. The relative precedence of other non-Government Bills which have been introduced, but which have not been proceeded with as far as the stages set out above shall be determined by ballot. So a ballot ought to have been taken before the beginning of the first meeting. In the last meeting's agenda we find the Marumakkathayam Bill and the Legislative Council Members' Exemption Bill coming before and the Tenancy Regulation coming only subsequent. Here it is topsyturvy. I don't understand how the authorities concerned are so enamoured with the Tenancy question—such an injurious Bill as I consider it to be.

Mr. K. Achyuta Menon.—Clause (4) relates to Bills introduced. The other Bills are not Bills introduced.

Mr. K. T. Mathew.—This Bill has not been introduced. It must be put in the category of Bills asking for leave to

LIBRARY ARCHIVES Kerala Legislative Assembly

introduce. Both of them have got the same status and nothing more. All these Bills should have been ballotted together.

Mr. Chakko Cheruvattur.—All resolutions and Bills are to be ballotted.

President.—That is only an irregularity at the most.

Mr. K. T. Mathew.—What is not ballotted cannot be taken up here. The question has been raised so many times. From the very first sitting of the Council I have been raising this point. The Government will say always "we will consider". This pious hope they have been holding out for a long time. We want to follow the Standing Orders. What is not ballotted should not be taken up for discussion in this House.

President.—We must proceed according to the agenda.

Mr. K. T. Mathew.—The agenda cannot be accepted. The Secretary may, by mistake, give notice of so many things. We have the Standing Orders. Till the Standing Orders are amended, we have right to say that the Standing Orders must be followed as they stand.

Mr. Chakko Cheruvattur.—I want a ruling upon my point of order.

President.—I shall try to be strict hereafter. I will record my ruling.

When Mr. C. A. Kunjunni Raja moved for the introduction of his Bill to amend the Cochin Tenancy Regulation, two objections were raised by way of point of order, one by Mr. K. T. Mathew and the other by Mr. Chakko Cheruvattur, and both wanted a ruling on the points raised by them.

The objection of Mr. Mathew is that the provisional list was not sent as contemplated by clause (b) of Standing Order No. 3, while that of Mr. Chakko is that precedence was wrongly given to this Bill in the agenda paper, and that should not be allowed.

It is admitted, and the records show, that a provisional list of legislative business was sent more than fourteen days before the date fixed for this meeting, and the motion for the introduction of this Bill is referred to therein as one of the items of business during the session. The objection is apparently based on a wrong interpretation of the word "session". That word, as defined in the Standing Orders, only means the period during which the Council sits on each occasion. The notice, therefore, is absolutely correct.

The objection of Mr. Chakko is that this was one of the Bills for which leave for introduction was asked for at the last session of the Council, that it was ballotted along with other similar Bills, and that, according to the agenda papers of the

LIBRARY ARCHIVES Kerala Legislative Assembly

last session, some of the other Bills had precedence over this, and that it was wrong to have changed that order in the present agenda paper so as to give precedence to this Bill. He also contends, in the matter of precedence, there is no difference between a motion for introduction of a Bill and one for leave to introduce, and that the Diwan had no power to publish a Bill so as to enable a Member to introduce it without leave of the Council, when once a motion for leave to introduce was referred to the Council. I do not think these objections can stand. During the last session, this was, no doubt, one of the Bills for which notice of a motion for leave to introduce had been given. Subsequently, the Diwan ordered the publication of this Bill, on the application of the Member under section 29 of the Rules, and this entitles the Member to move for its introduction itself without taking the leave of the Council. I can find nothing in the Rules or Standing Orders placing any restriction on the power of the Diwan in this matter. The proper motion with regard to this Bill is, therefore, one for introduction and not leave to introduce.

It is then contended that a motion for leave to introduce and one for introduction stand on the same footing, so far as priority is concerned, and there is, therefore, no reason why precedence should be given to this Bill over the others without ballotting. I do not think this contention is correct. Although such a case is not specifically provided for in Standing Order No. 6, the principle laid down implies that priority should be given to this Bill. According to clause (3) of the Standing Order, a Bill more advanced than the other is entitled to precedence. The sub-clauses are merely illustrations of the Rule, and, therefore, merely explanatory of the clause and not exclusive. A motion for introduction is certainly a stage more advanced than one for leave to introduce. I, therefore, hold that precedence was properly given to this Bill over the others that follow in the agenda paper. That is my ruling.

Mr. Chakko Cheruvattur.—That is Bills for introduction and leave to introduce should not be ballotted together.

Mr. K. T. Mathew.—Your ruling should be based on the Standing Orders, Rules and Regulations. The President has no power to undo them. So long as they are on the Statute Book, they should be followed by the President and the Council.

Mr. K. Achyuta Menon.—That is what the President decided.

Mr. K. T. Mathew.—Regarding ballotting, there is explicit provision in the Standing Orders, and that it should be

LIBRARY ARCHIVES Kerala Legislative Assembly

strictly followed is what I submit. What is not ballotted should not be taken up for consideration here.

President.—Who says that they were not ballotted?

Mr. K. T. Mathew.—No one says that they were ballotted as provided in the Standing Orders. If they were ballotted, it is not likely that we would get the present order. In the business of the last meeting the Marumakkathayam Bill and the other Bill came first.

Mr. C. A. Kunjunni Raja.—A fresh ballot was taken. Only when those ballotted are exhausted, the next ballot is taken up.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The only point we have to consider is whether we have transgressed palpably any of the provisions of the Standing Orders in moving a Bill in the agenda.

President.—Bills are to be arranged according to priority in the order of the date of introduction.

Mr. Chakko Cheruvattur.—That refers only to Bills that have been introduced. This is put up for introduction.

President.—Therefore, this does not apply, because it is not the case of a Bill which is introduced.

Mr. Chakko Cheruvattur.—It refers to all Bills and resolutions, whether introduced or not. Standing Order 6.

President.—It is clause (4).

Mr. K. T. Mathew.—It relates to Bills which have been introduced.

Mr. C. A. Kunjunni Raja.—This is a matter to which Standing Order 6 (3) will apply. Here the stage is introduction. It is more advanced than the stage of leave to introduce.

Mr. Chakko Cheruvattur.—Only three stages are given priority. That is all.

President.—All conceivable Bills are not given there.

Mr. K. T. Mathew.—They are not given as examples. Anybody may commit a mistake.

Mr. C. A. Kunjunni Raja.—An illustration cannot control a main section.

Mr. Chakko Cheruvattur.—It is stated in Standing Order 6, clause (3), that the relative precedence of Bills and resolutions shall be determined by ballot.

President.—This relates only to the relative precedence of non-Governmental Bills which have been introduced.

Mr. A. B. Salem.—Can you conceive of any other stages, Sir?

LIBRARY ARCHIVES Kerala Legislative Assembly

President.—In this case it was first tabled for leave to introduce, and sanction has been granted for moving for introduction. That is a stage in advance of the stage of a Bill where leave has been applied for, but not granted.

Mr. K. T. Mathew.—The Standing Order does not contemplate any distinction between a Bill where leave to introduce has been sought and one where the introduction has been sought.

President.—The three distinct stages are, first, leave to introduce, then, introduction itself, and then, referring to the Select Committee stage.

Mr. K. T. Mathew.—The Rule says "the relative precedence of non-Governmental Bills."

Mr. C. A. Kunjunni Raja.—"Which have been introduced".

Mr. K. T. Mathew.—What does the Member mean by the term "which have been introduced"?

Mr. T. K. Krishna Menon.—I do not think there is room for confusion in a matter like this. I shall just explain once again. On the first occasion,—I may be repeating, but I am not responsible for it—the Member asked only for permission to move for leave to introduce his Bill. It was given. And so it was put, in the provisional list, among the list of Bills for which leave to introduce had been asked for. Subsequently, after that meeting was over, we got information from the Diwan that permission was given him for getting his Bill published in the Gazette. It was so published too. So, instead of his asking for leave to introduce it, he got on to the next stage, that is, leave to move for the first reading of the Bill. Consequently, in the provisional list, as well as in the agenda, we have put it as a motion for introduction of the Bill. So that is the first point. Secondly, the Members for Vadakkancheri and Kunnamkulam want to make the House understand that the motion for leave to introduce and the motion for introduction are the same, and so such Bills have to be ballotted together. I beg to differ from them. There is difference, and consequently, they must be ballotted separately. These are now different motions.

Mr. K. T. Mathew.—That does not come from this.

Mr. T. K. Krishna Menon.—That is only a difference of opinion. Points (i), (ii), and (iii) in Standing Order 6 (3) are only illustrative and not exhaustive. Motion for leave to introdue is the first stage. Motion for the first reading is the second stage.

Mr. K. T. Mathew.—That is a point which you have been harping all along. We have been saying that the rule does not mean that.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. T. K. Krishna Menon.—It is he, Sir, who has been harping, not I. The pity of it is that, in spite of repetition, he does not catch the correct point.

President.—I ask Mr. Raja to make the motion.

Mr. C. A. Kunjunni Raja.—I move that the Bill to amend the Cochin Tenancy Regulation be read in Council.

Mr. N. Padmanabha Menon.—Sir, I beg to second it.

Mr. C. A. Kunjunni Raja.—When I consider that there is much non-official business still before the Council which is about to be prorogued, and also that the whole of to-morrow will be taken up by official business for motions for supplementary grants, and that ten cut motions have been tabled on the same, I have to be very brief even though I would like to take the House through the various provisions of the Bill, so that I may convince the House that even though the Landlord Member has been the sponsor of the Bill, it is a supremely reasonable measure, and every word of it is supported by authority. Well, I shall first explain the main sections and then dwell at length on the necessity for the amendments. I will begin with section 3. It deals with the definition of the word "improvement". A doubt was expressed whether a squatter can claim value of improvements under the existing Regulation. The present amendment, if accepted, would give him the right for value of improvements made by him. In order to remove the doubt, the new definition of the word "tenant" is accepted *in toto* from the British Act. The next amendment is to section 4. The words "that is subject to renewal", are to be omitted, and the words "which is ordinarily renewed" are to be inserted. Before the Tenancy Regulation no *Kanom* was subject to renewal. There is no legal obligation for renewal, unless there is some agreement. Since it was ordinarily renewed, to import that idea, the words "which is ordinarily renewed" are to be substituted for the words "that is subject to renewal". Coming to section 5—

Mr. C. Achyuta Menon.—This is going very much into the details of the amendments to the Regulation.

Mr. C. A. Kunjunni Raja.—So far as this Bill is concerned, there is no common principle, because we are amending different sections, and under each section you will have to explain its principles. I will avoid explanation, if the Council is amenable to carry the Bill to a Select Committee. My Bill is only a skeleton, and the Council has to give it flesh and blood. It has to be improved in several ways. There may be many shortcomings. If the House is agreeable to my motion, I shall stop here, and I shall not enter on any explanation. I candidly admit that in this Bill there is no underlying common principle.

LIBRARY ARCHIVES Kerala Legislative Assembly

The twelve years' working of the Tenancy Regulation has brought out many difficulties in its working. The Hon'ble Judges of the Chief Court, the District Judges, the Sirkar Vakils and the Bar Associations of Ernakulam and Trichur have been consulted, and they have offered their opinions, and they have all come to the conclusion that certain amendments are absolutely necessary. That is, if any, the only common principle. I shall, not therefore, go into the explanation of the details, on the understanding that the Bill is to be referred to a Select Committee.

Mr. Chakko Cheruvattur.—Sir, am I to understand that, if this amending Regulation is referred to a Select Committee, the Committee can go into every section contained in the Regulation or are they to confine themselves to the sections suggested to be amended? If it is a fresh Regulation, I can understand. They can consider all the aspects of the Regulation.

President.—I think the Committee has power to recommend points on which amendments to the Regulation are to be made as they think necessary. They can do that.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—I think they can go into the whole Regulation.

Mr. A. B. Salem.—The proposition you have in this Bill here which is called the Tenancy Regulation Amendment Bill is that there are certain provisions here to be added to or taken away from certain sections of the original Bill. The question is whether the Select Committee to be appointed, if appointed, can go into the whole Tenancy Regulation and amend all the defects in it, or whether the Select Committee will have to confine its attention to the provisions laid down now before the House, and see whether they can be amended. If it is an amendment to the Cochin Tenancy Regulation, we all agree. If it is not, we do not agree.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—It is an amendment to the Cochin Tenancy Regulation, and the Select Committee can go into the whole Regulation.

Mr. A. B. Salem.—If the Committee is to go into the whole Tenancy Regulation, then we have no objection.

Mr. C. A. Kunjunni Raja.—The title of the Bill itself is "A Bill to amend the Cochin Tenancy Regulation." Further, I may also state in this House that I am willing to amend all the sections of the Tenancy Regulation.

Mr. A. B. Salem.—If that is the position, we do not oppose. If that is not, we should oppose the motion.

Mr. K. S. Rama Ayyar.—I directly oppose the introduction of the Bill.

LIBRARY ARCHIVES Kerala Legislative Assembly

The Member for the Jenmies has now brought a Bill to amend the Tenancy Regulation. In his statement of objects and reasons he says "the Bill is based on the criticisms hitherto received by the Government." Now, I ask, and somebody must tell me how he got at these criticisms. Did the Government place these criticisms with him and ask him to draft a Bill? Or did he apply to the Government and get the papers and himself draft the Bill? One thing more. This self same Bill was in statement of business for the last meeting of the Council, and there he was put down to ask for leave of the House to introduce his Bill. That is the first step in regard to all non-official Bills. There was no time to take it up, and it was then, therefore, adjourned. In the interval that passed between the last meeting and this, the Member for the Jenmies got another privillege from the Government. His Bill was published in the Gazette. And to-day he comes, a privileged Member, and seeks that his Bill be read in Council—the second step in regard to Bills. These two things make me think that the Government has been supporting the Member, and he is a Member representing the Jenmies. There is no use denying the fact that the interests of the Jenmies and the interests of the Kudiyans are two different things. And as the number of Kudiyans is several thousands, and their existence in the country depends to a large extent on the Jenmi-Kudiyan policy of the State, this support of the Government extended to the Member for the Jenmies makes me anxious, and I fear there will be a consternation among the Kudiyans when they come to know of these things. Therefore, I say the Government could have kept aloof and left the Jenmi Member to himself, if they were not prepared to bring in an official Bill as the Government made us believe they would at one meeting of this Council before.

Now, coming to the Bill itself, no principle is enunciated in the Bill and, as such, there can be no discussion on the principles of the Bill as is required at this stage. I shall, however, refer the House, only to one section of the Bill, namely, section 18. This section, he says, is to amend section 18 of the Tenancy Regulation. Section 18 of the Regulation, as it stands now, reads thus:—"When trees are planted, in excess of the following scale, the Court, if satisfied that, in the circumstances of the particular case, the land is over-planted may, notwithstanding anything hereinbefore contained, either refuse to grant compensation or may grant compensation at a lower rate, for so many of the trees as are in excess of the scale and are immature.

Cocoanut trees	120	per acre.
Arecanut trees	720	,,
Jack trees.	60	,,

LIBRARY ARCHIVES Kerala Legislative Assembly

What amount of commonsense is there in that section, I need not tell you. But the Member for the Jenmies aims to introduce a drastic cut and wants to reduce the figures to 60, 480 and 40, which, if passed, will cut at the root of the Kudiyan system and shake the very foundation of the tenancy problem.

The Bill aims at the repeal of several sections of the existing Regulation and suggests alterations in almost all the sections. Now, if the Bill is allowed to be read and referred to a Select Committee, I fear there will be an overhauling of the whole Regulation, and nobody can say where we shall be landed; so, in opposing the reading of this Bill, I shall place before you certain principles which require the elaborate consideration of the House at this critical juncture.

The people of the State depend mainly on agriculture for their livelihood, as the other industries have not sufficiently well developed. Population is increasing every day, and the development of agriculture and other industries does not keep pace with the increase of population. The problem of living is, therefore, becoming more and more difficult. On a careful examination of the existing state of affairs, it can be easily found that, in the economic organisation of the State, nothing is more important or deserving of more attention than the principles and methods on which land is owned and cultivated by the people.

The Government recognised so long ago as 1080, more than they did at any other time before, that the agricultural prosperity of the country depends on granting proprietorship of the soil to the tenants, and His Highness the Raja issued a Proclamation on 27th Kumbham 1080, in which His Highness openly declared certain sensible decisions. Para 13 of the Proclamation runs thus :—"At present holders of *Pandaravaka Verumpattom* lands do not possess any property in the soil. As We are convinced that proprietorship in soil will induce a cultivator to improve his land and thereby add to the agricultural prosperity of the country, We hereby declare that Our *Verumpattom* holders of lands shall, after the new Settlement has been introduced, acquire full rights to the soil of the lands they hold, and that their sights shall remain undisturbed, so long as they regularly pay the State revenue....." Para 17 (3) of the same Proclamation says "the proprietorship to the soil shall vest in the *Kanomdar*." When the Government realised the necessity for granting proprietorship of the soil to the tenants and granted it in the case of *Pandaravaka Verumpattom* and *Kanom* lands for the purpose of insuring the agricultural prosperity of the country, one fails to understand why, for the same reasons, they did not think of placing the holders of *Puravaka* lands also on

LIBRARY ARCHIVES Kerala Legislative Assembly

the same or on a similar footing. At the time of the Proclamation there was in the State a total of 4,80,000 acres of land held under a variety of tenures, both *Pandaravaka* and *Puravaka* together; but the Proclamation gave relief to only holders of 1,68,500 plus 26,500 or 1,95,000 acres, while the holders of the remaining hundreds of thousands of acres were left as they were.

The holders of *Puravaka* lands, however, thought that a day would come for them also, and that their case would be considered later on under another Proclamation or a special legislation. And, as they expected, although it was after a lapse of seven years, in 1087 the question of *Puravaka* lands was taken up. The deliberations lasted for about three years, and in 1090 a Regulation was passed. But the measure that resulted was only a half-measure, and it gave a sort of permanency of tenure to the *Kanom* tenants alone. Even in this small matter the Government committed a mistake in restricting the definition of the term *Kanom*; and a large number of tenants who held lands under tenures cognate with or similar to *Kanom* did not get the relief that they were entitled to, although, at the beginning, it was the intention of the Government to include them all. Appendix I to order, dated 21st August 1913, Ref. on C. No. 1773 of 1088, in giving certain instructions as to how the Draft Regulation should be revised, says, "The definition should be so worded as to include all tenures in respect of which a consideration (in money or in kind or in both) is paid to the landlord for which he pays interest and should include tenures which are according to custom renewed after a fixed period on payment of a renewal fee." It was thought that the definition in the Regulation included all these; but after the passing of the Regulation, the Chief Court interpreted it otherwise, and the decision of the Chief Court has nullified the benefit even if the Regulation conferred any.

Puravaka Verumpattom holdings cover so large an area that the Government cannot, for any reasons, neglect or ignore them whenever they consider the question of the economic organisation or the agricultural prosperity of the State. But *Puravaka Verumpattam* holdings count for nothing now. So also some other tenures. They cannot get the relief they want from the Jenmies themselves. And, as it has been acknowledged all round by authorities on Ecnomics and Politics that, without permanent occupancy rights or fixity of tenure, no country can prosper, the question cannot, with any propriety, be left as one to be settled between the Jenmies and the tenants and by them. If, therefore, in respect of *Puravaka* lands the Jenmies would not

LIBRARY ARCHIVES Kerala Legislative Assembly

agricultural prosperity of the country, it then becomes the duty of the Government to interfere and legislate upon the matter. No right that the Jenmies will put forward can stand in the way of legislation when the point at issue is the general well-being of the people. The Jenmies got all the properties now registered in their names for nothing. They never cultivated them themselves and never invested any money in improving them. Their care has always been to get something out of their lands, their livelihood, and for this purpose, let or leased these properties to other people on tenures of different kinds. It has always been the business of the tenant, whatever be the tenure, to invest money and labour to improve the lands and to cultivate them; the Jenmi's part has always been to make the best out of the lands through the tenants. The lands have, therefore, been always in the occupation of tenants. But the thing that affects the agricultural prosperity of the country adversely is the frequent change of lands. It is this that has to be stopped. The arbitrary and indiscriminate exercise of the so-called absolute rights of ownership and the consequent practice of the evictions at will, exorbitant and annoying exactions and the obnoxious *melcharths*, it is these that have prompted all governments to legislative measures in the matter of Jenmi and Kudiyan at all times. The words of Mr. (now Sir) A. R. Banerji, Diwan of Cochin, in his Press Communique, dated 9th March 1912, para 70, are worthy of repetition here. He says, "If a Jenmi is to evict without any ground, give *melcharth* on the slightest provocation, receive *Soujanyams*, raise *pattam* and reduce interest on *Kanom* amounts according to his will and pleasure, then the State is bound to interfere and protect the tenants from these exactions and acts of oppression."

It is proprietorship of the soil that the Government granted. The position of the Jenmi is not the same, and he may not possibly do so much. What is, therefore, wanted of the Jenmies is only that they should grant permanent occupancy rights to all sorts of Kudiyans who hold lands directly from them, no matter the kind of tenure under which they hold them and no matter the name by which the tenure is known.

His Highness the Raja in para 26 of the Settlement Proclamation of 1080 declared "that the new Settlement shall be current for a term of thirty years, and that during this period the assessment shall not, in any way, be enhanced, and that no interference of any kind will be permitted with the new Settlement for the next thirty years." "This declaration was made to secure to the holders of lands the utmost freedom of action in improving their properties and turning them to the best

LIBRARY ARCHIVES Kerala Legislative Assembly

advantage according to their means and their inclinations. This was extended to *Pandaravaka*, *Kanom*, *Panayam* and other cognate tenures by whatever name known, and the practice of subjecting the properties to renewal once in twelve years was altogether abandoned. The reasons that induced the Government to make the declaration apply with equal force in the case of *Puravaka* lands also. But, even when a Regulation was passed ten years after the Proclamation, *Kanom*, in regard to which a sort of permanency was granted, was left to be renewed once in twelve years as before, and *Verumpattam* which did not count at all remained redeemable and renewable at will. No lengthy argument is necessary to prove that undisturbed possession of property is the greatest incentive to improvement. As such, the practice of frequent renewals should be given up, and, if a permanent settlement cannot be effected for any sound reasons, a system of settlement of rents and rates payable by the Kudiyan to the Jenmies once in thirty years should be introduced, if the general well-being of the people has to be safeguarded.

Then, again, there are no prescribed rates or rules for fixing the *pattom* and *michavaram* now, and it is well-known that what rules there are more honoured in their breach than in their observance. Each Jenmi dictates his own terms, and there is seldom any uniformity. In this matter definite and clear rules should be laid down, and the rules should be framed in such a way as to give no cause for difference of opinion or litigation.

The difficulties attending a renewal are so many that people who have had nothing to do with such things cannot easily realise their magnitude. Several kinds of customary fees have to be paid, the Jenmies' *Kariastan* has to be satisfied, not infrequently the Jenmi himself has to be bribed, much time has to be spent and much worry undergone that in the case of a person who holds several lands under a Jenmi a renewal of the lease of his holdings sometimes amounts to a renewal of the lease of his life. There are no prescribed rates for the fees exacted; custom which is said to have the force of law is easily and almost always not cared for; *Soujanyams* may amount to anything according to the whim of the Jenmi or the caprice of the *Kariastan*, the totals sometimes swelling to such an extent that they become almost prohibitive. As at every settlement the Jenmi has a sure prospect of getting enhanced *pattom* the continuance of these exactions is unnecessary and unjustifiable, and as the practice allowed by custom has been a weapon in the hands of the Jenmies and their *Kariastans* to oppress the Kudiyans, it deserves nothing less than complete abolition.

LIBRARY ARCHIVES Kerala Legislative Assembly

It has always been the policy of the Government to minimise the annoyance caused to the people by the various small items of miscellaneous cesses. Once before they abolished *Rakshabhogam*, *Kalyana Kalcha* and some other items. And at the time of the last Settlement in 1080 they gave up all items that then remained, such as *Patta Kalcha*, *Anubhoga Kalcha*, *Andu Kalcha*, *Peedikappanam*, *Alappanam*, *Choolappanam*, etc. But it is a pity that the Government never considered what amount of annoyance the *Puravaka* Kudiyans are put to on account of the many cesses that they are subjected to. Even when the Government took up the question and passed a law to regulate matters between the Jenmies and Kudiyans, they, quite regardless of the annoyance to the Kudiyans, provided for the speedy recovery of what they called customary dues, and made it lawful for the Jenmies to claim arrears of all such items in their suits for arrears of *pattom*. It must always be borne in mind that land-holding and cultivating land is not a very easy business and not very profitable, and people are slowly giving it up and trying to find out other occupations for themselves. In these circumstances the policy of the Government must be to minimise the difficulties of the people who stick to or to take to this business and do everything in their power to keep it as attractive as possible. One of the most important things that the Government should do in this connection is to remove the heaviness of taxation. A reasonable rent may be exacted, and there it must stop. All other cesses over and above the rent must go, as they always annoy the payer and are additional burdens on him.

Twenty-two years after the Proclamation, the Jenmies have now found out that it is a difficult task undertaking to pay the Land Revenue assessment, and they have now brought a Bill into the Legislative Council in which they seek relief from the worry of paying the assessment by a system of joint registration. All the Land Revenue was being paid by the tenants before the Settlement. How it came about that the Jenmies should pay it is not quite clear. Now, if this Bill that the Jenmies have introduced is passed, the Jenmies will have some relief, and it is almost sure that the Bill would become law, as the Jenmies will be benefited, and the Kudiyans do not lose anything. The tenants would then pay the Land Revenue assessment; but that goes to the Sirkar. The Jenmies experience the same difficulties in the matter of collecting the *pattom* which is their share of the produce, and it is but right that provision should be made for the prompt payment of *pattom*, as it will be helpful to the Jenmies and at the same time advantageous to the Kudiyans,

LIBRARY ARCHIVES Kerala Legislative Assembly

It was with this view that the Government provided for some summary powers to District Judges and District Munsiffs in suits for arrears of *pattom* and exempted certain cases from payment of court fees. But this provision does not help the Jenmies to any great extent or induce the tenants to be prompt in their payments. To see that the Jenmies get his *pattom* at the right time and that the Kudiyan pays it promptly, the Civil Court cannot serve as the proper channel. In this connection, something new has to be devised. This may appear to be a little difficult business. But it cannot be helped. It is litigation for the recovery of *pattom* that ruins the Jenmi and the Kudiyan, and as both these elements have to be preserved against ruin, some new method must be found out.

The practice of demanding *pattom* in kind has been found to be the cause of unbearable trouble to the Kudiyans. The Jenmi's lands produce paddy, and the Jenmi wants a lot of this article for his consumption. If the Kudiyan will supply the Jenmi with this article, a large part of the Jenmi's worry in the matter of the management of his household is over. And as the paddy that the Jenmi demands is only a fraction of what is produced in the Jenmi's land, it may be thought that there can be no cause for reasonable complaint. But the annoyance to the Kudiyan at the time of the satisfaction of the demand caused by the cost and the worry of carrying the paddy to the Jenmi's quarters, by the practice of the Jenmi keeping a special *para* or all sorts of *paras* for receiving *pattom* and by the notorious malpractices in the measurement of the paddy is so very great that right-thinking people have always advocated the stoppage of payment in kind. This is not a small matter, and it has to be well-considered.

The practice of frequent renewals of leases and change of hands has been necessitating the writing up of several documents and the expenditure of much money for the purpose of stamp paper and for the registration of the documents. If the grant of permanent occupancy right is conceded, then there will be no necessity for any documents between the Jenmi and the Kudiyan, and it will be enough, if the Jenmi issues a *Patta* and takes *Muchilika*—as it is called in British India—from the tenant, and that will be an end of the matter.

I have now laid before you certain principles on which legislation should be proceeded with. My aims are, to put them briefly, (1) that all Kudiyans should have permanent occupancy rights over the lands they hold, (2) that rents and rates payable by the Kudiyans should be fixed under prescribed rules, (3) that the practice of frequent renewals should be abandoned, and that settlement of *pattom* should be made only once in thirty years,

LIBRARY ARCHIVES Kerala Legislative Assembly

do what in the case of *Pandaravaka* lands the Government have done in view of the economic well-being of the people and the (4) that all cesses over and above the regular *pattam* should be given up, (5) that payment in kind should be stopped, (6) that the best provision possible should be made for the prompt payment of *pattam* by the Kudiyans (7), that no room should left for any waste of time or money by the Jenmies or by the Kudiyans over difference of opinion and consequent litigation. Unless and until the principles that are going to be worked out are shown to be these or similar to these, I say legislation may be suspended. I aim at the agricultural prosperity of the State and the economic well-being of the people. If this aim and these principles do not commend themselves to the House now, we can content ourselves with what law we have now, right or wrong, good or bad.

If this House think otherwise and decide to proceed with legislation on the matter, I would suggest that the Members of this House should carefully read all available literature connected with the problem in the State, and I would also invite their attention to the Madras Estates Land Act and the beautiful commentaries thereon before they sit down to legislate.

Lastly, as the matter is very important and one that affects the interests of the thousands of people in the State whose very existence, as I told you before, depends, to a large extent, on the Jenmi-Kudiyan policy of the State, I would also request the Government to consider the advisability of nominating an additional Member to the Council for the purpose of this Bill, to look after the interests of the Kudiyan, and when it comes to that stage, I would even suggest the name of Dr. V. K. John, L. L. D., Barrister-at-Law, who has made a special study of the subject, and whom I have no hesitation to call an expert on the Tenancy question.

The Council rose for the day, it being 5 p. m.

T. K. KRISHNA MENON,
Secretary to the Council.

LIBRARY ARCHIVES Kerala Legislative Assembly